

1-23-2001

Motions 2001 volume 36 number 5

University of San Diego School of Law Student Bar Association

Follow this and additional works at: <http://digital.sandiego.edu/motions>



Part of the [Law Commons](#)

Digital USD Citation

University of San Diego School of Law Student Bar Association, "Motions 2001 volume 36 number 5" (2001). *Newspaper, Motions* (1987-). 88.

<http://digital.sandiego.edu/motions/88>

This Book is brought to you for free and open access by the Law Student Publications at Digital USD. It has been accepted for inclusion in Newspaper, Motions (1987-) by an authorized administrator of Digital USD. For more information, please contact digital@sandiego.edu.

MOTIONS

University of San Diego School of Law

Volume 36, Issue 5

January 23, 2001

How Was Your Break?

By Chad McManamy
Section Editor

Welcome back! The completion of the fall semester represents an accomplishment for all students. First year students can breath a little easier having just finished what is certainly the most terrifying of all semesters. Second year students are at least half way through the proverbial hump. Third year students are on their way out with one semester remaining; so near the light at the end of the tunnel.

As students return to campus, holiday break activities pervade conversations. Questions such as "How was your break?" or "What did you do?" consume the better part of our initial utterances to each other. A tuned ear can pick

The final group of students indulged in the most traditional of college student activities, i.e., partying. From post final celebrations, to crashing as many Christmas parties as they could locate, to New Year's Eve bashes and bowl-game get togethers, these students believe they deserved to make-up for partying time lost during the fall semester. A closer observation of these students begs the question, "Are these the same people attending every Thursday night bar review?" This group is often confused with the couch potatoes of the first group, because they are so often found curled up on a sofa in front of the television when they are not partying. A subtle but distinct difference between the two groups, of course, is the large bottle of aspirin and water located within arm's reach of those in the party group. Also, the party group tends to have a complete lack of consideration for whose sofa they

During the wait for the building to open, many rumors surfaced concerning student usage of the new facility. In anticipation of continued misinformation I spoke with the director of the Jenny Craig Pavilion, Carl Reed, for the straight answers about the new gym. Most students familiar with the old facility will be pleasantly surprised with the student-friendly plans for the gym. Mr. Reed commented that while the system is new and without precedent, every effort to accommodate students will be made. Some features of the new facility will greatly improve the bottleneck of the old garage. For example, a significant increase in the amount of cardio equipment should allow more students to work-out without waiting for a machine. Also, there is an increase in the number of free-weights available to help lessen the waiting time.

The biggest change in the new facility will be the



out recurring themes in the reports of our respective holidays. My ear found three distinct, but occasionally overlapping, themes.

The first group are those who spent time recovering from Finals' Sleep Deprivation Syndrome. Curled in the fetal position on a relative's couch, these students faded in and out of consciousness while watching rented movies and re-runs of missed prime-time dramas. Looking like a patient in the intensive care ward, they needed only to be provided with the basic necessities--potato chips and popcorn--and a remote control as treatment for recovery.

The other group qualifies as more energetic than the first. This group traveled over the break. From domestic to international destinations, these students made the most of their break. Often times their return to school was scheduled to within hours of their first class--some even returned after their first class. However, not everyone in this group experienced denial regarding the beginning of a new semester. Some viewed classes as a welcome retreat from a busy schedule of holiday travel. A vacation from a vacation in other words.


end up on.

While students may choose different paths regarding their vacations, the one recurring theme is the lack of attention paid to physical health. The couch potatoes, travelers, and party hounds too often set aside their regular work-out schedules during the holiday break. Additionally, the lure to overindulge on free holiday food is very attractive to poor law students. Like a month long lunchtime meeting with free pizza, or an Alaskan grizzly bear during a salmon run, students usually make the most of holiday dinners and confections. Traditionally, the return to USD has not offered much in the way of repairing students' self-inflicted damage. This semester, however, is different.

The long awaited, highly speculated, and often procrastinated opening of the Jenny Craig Fitness Facility has arrived! With sparkling new equipment and a structure that actually resembles a fitness area (the old facility seemed more suited as a garage than a gym), students now have a decent work-out gym. As of Tuesday, January 16, 2001, the facility is open and ready for business.

attempt to keep the gym open to students throughout the entire day. The use of the previous facility for team workouts limited the amount of time students could exercise. According to Mr. Reed, the plan is to avoid the old ways. It might become necessary to close a part of the new facility; however, there will still be an opportunity for students to exercise during this time. So, no exercise time should be lost, and students can't use scheduling conflicts as an excuse for not working-out. The remaining rules and regulations for the new facility have not been completely defined yet. Expect minor adjustments as student usage and demand are determined and discovered.

Regardless of which holiday group you fall into, make time to stop by the new facility in the Jenny Craig Pavilion. The physical exertion of a workout will do wonders for your mental health. Access is through the lower doors on the northwest corner of the building, and you will need a valid student I.D. By the way, although it is the Jenny Craig Pavilion, there will be no mandatory weigh-ins.



University of San Diego
SCHOOL OF LAW

Published Since 1971

EDITORIAL
BOARD

Kenneth M. White
Editor-in-Chief

Christine Pangan
Chad McManamy
Section Editors

CONTRIBUTING

Frank Cruz

ADMINISTRATIVE
REVIEW

Carrie Wilson
Dean of Student Affairs

For Information, please call
619-260-4600 ext. 4343

Disclaimer: The contents of
this newspaper do not reflect
the views or opinions of the
University of San Diego
School of Law, the University
of San Diego, the University
of San Diego School of Law
News Organization, or the
Editors, Directors or Staff of
this newspaper and are solely
the products of the authors in
their individual capacities.
Unsigned editorials reflect
only the view of the Editorial
Board of this newspaper, a
Student Organization consis-
tent with University of San
Diego School of Law policies.

MOTIONS welcomes all let-
ters, guest columns, com-
plaints and commentaries. All
submissions must be signed
and include daytime and
evening phone numbers. We
do not monetarily compensate
contributing writers. We
reserve the right to edit for
content, length and style.

Quacky and Quirky Qualitative Quibbles of Quintessential Quotations to Quid Upon

Quotations are a source of inspiration for many. When the slings and arrows of outrageous fortune fall upon us, the wisdom of those who lived before us is sometimes the only satisfaction, or explanation, we can find. It is in that spirit that *Motions* presents the first ever Quack and Quirky Qualitative Quibbles of Quintessential Quotations to Quid Upon. We hope you enjoy them.

If you can dream it, you can do it.
--Walt Disney

Service is the rent we pay for being. It is the very purpose of life, and not something you do in your spare time.
--Marion Wright Edelman

All of life's answers are on TV.
--Homer Simpson

I keep my ideals, because in spite of everything, I still believe that people are really good at heart.
--Anne Frank

We are what we repeatedly do.
--Aristotle

No one can make you feel inferior without your consent.
--Eleanor Roosevelt

The world has enough for everyone's needs, but not everyone's greeds.
--Mahatma Gandhi

Think for yourself and let others enjoy the privilege of doing so too.
--Voltaire

If you haven't learned anything new today, you've wasted the day.
--United States Marine Corps

Pain is just weakness leaving the body.
--United States Marine Corps


It is good to have an end to journey toward; but it is the journey that matters in the end.
--Ursula K. Le Guin

Shoot for the moon. Even if you miss, you'll land among the stars.
--Les Brown

The less I seek my source, the closer I am to fine.
--Emily Saliers

People only see what they are prepared to see
--Ralph Waldo Emerson

Serenity Prayer Gets to the Heart of Recovery



Alive & Free

HAZELDEN

In the concentration camp, Viktor Frankl was prisoner No. 119,104. He spent most of his time in forced labor, laying tracks for Nazi railway lines. At one point, his job was to dig a tunnel for an underground water main. He worked alone. His reward was a coupon worth 12 cigarettes. Instead, he exchanged the token for 12 bowls of soup so he could avoid starving.

Many people assume that the only response to this situation would be misery or insanity. Yet, even in the concentration camp, Frankl felt free. In "Man's Search for Meaning: An Introduction to Logotherapy" (Beacon Press, ed. r, \$20), Frankl concluded that everything can be taken from us except one thing: "the last of human freedoms--to choose one's own attitude in any given set of circumstances, to choose one's own way."

Another name for this freedom is acceptance. And acceptance is the key to the Serenity Prayer, commonly recited at meetings of Alcoholics Anonymous and other Twelve Step groups:

*God grant me the serenity
to accept the things I cannot change,
courage to change the things I can,
and wisdom to know the difference.*

If we can understand what this prayer means, then we can better understand what recovery from addiction is about.

As human beings, we have two basic strategies for handling any situation that disturbs us. One is to change the situation. For example, if

we're chronically short on money, we can trim our expenses or seek a higher-paying job. If we're lonely, we can call a friend.

This is how we usually cope with distress: We try to alter the world outside us. And in many cases, this is powerful and appropriate.

However, circumstances are sometimes beyond our power to change. A sudden, unpredicted expense may undercut our plans to save money. We can call a friend to quell our loneliness, but that person may not be at home. Hoping we can control every event that comes our way is like hoping we can control the weather.

In such moments, we often forget we have a second option: We can change our response to the situation. This second option is the one Frankl discovered. While he was in the concentration camp, escape was not feasible. He was powerless over his situation. So he responded by dwelling on thoughts that empowered him.

More specifically, Frankl stayed alive to the beauty of nature. Even the Nazis could not take away sunsets. He imagined amusing incidents that could take place in the future, allowing himself to laugh. And he remembered the people he loved. "I understood," he wrote, "how a man who has nothing left in this world may still know bliss, be it only for a brief

moment, in the contemplation of his beloved."

It's possible to discover how these two options work in our own lives. Complete this sentence: I could be happy only if...Typical answers usually include "the right job," "the right relationship," "more money," "a new car," "a child," "a house." All of these have to do with the first option--having the "right" circumstances. All are attempts to change the world outside our heads.

But addiction is one of those situations that we're powerless over, and recovery from addiction means looking for serenity elsewhere--in the world inside our heads. It's learning how to dwell on beliefs, attitudes and thoughts that remain true no matter what happens to us.

Veronica Ray, in her book "Choosing Happiness: The Art of Living Unconditionally" (Hazelden, \$13), makes the same point: "The most important thing to learn about happiness, I believe, is that it is a choice. We always have it available to us; it's within each of us. What we need to remember is that there's always another way of looking at anything."

As the Serenity Prayer reminds us, this means changing what we can, accepting what we can't, and knowing the difference. For people in recovery--for all of us--such knowledge is the heart of serenity.

Alive & Free is a chemical health column provided by Hazelden, a nonprofit agency based in Center City, Minn., that offers a wide range of information and services relating to addiction and recovery. For more resources on substance abuse, call Hazelden at 1-888-535-9485 or check its Web site at www.hazelden.org.

The Debate Over School Vouchers

By Christine Pangan
Section Editor

With an overwhelming 71% voting no on Proposition 38, California voters rejected another school voucher proposition this past November. Proposition 38 authorized annual state payments of at least \$4,000 per pupil for private schools, amending the current California Constitution regarding public funding for K-12 education.

The proposition on November's ballot required the state to offer an annual scholarship (voucher) to every schoolage child in California. The checks would've been made out to parents, but sent to the private school chosen by the parents. Checks could only have been cashed to pay tuition and educational fees at schools that chose to be "voucher schools." Voucher schools could not engage in unlawful behavior, i.e., hire a felon as a teacher, nor discriminate on the basis of race, ethnicity, color, or national origin. However, the school could still restrict admission based on sex, religion, ability, and disability.

Last semester the USD Federalist Society presented a debate on the issue of school vouchers. "School Vouchers: Rescuing Low-Income School Children or Unconstitutional Charade?" pitted Institute for Justice litigation director Clint Bolick against California Teachers Association chief counsel Beverly Tucker.

Why Voucher Programs Help Improve Education

Bolick, who leads the nationwide effort to defend school choice programs, supported Proposition 38 as an important measure to improve education.

Bolick argued that school choice programs in higher education, such as the GI Bill or Pell Grants, are similar to the voucher program. "The state runs a public system of higher education and also provides funding where you get to choose where you use that money. Whether you go to Stanford, or USD, or UCSD, the funding follows the child to school," Bolick said. "That is exactly the system that we are advocating for K-12 schools."

According to Bolick, a huge dichotomy exists when comparing the quality of K-12 education with the secondary education of colleges and universities. "We are the world's envy when it comes to secondary education," Bolick said. "We are the world's embarrassment when it comes to K-12 education."

In *Brown v. Board of Education*, Bolick said that the Supreme Court committed to providing equal educational opportunities to every schoolchild. According to Bolick, this has not been available, particularly to low-income students and students of color. "The average

black high school senior in the United States today graduates four academic years behind the average white high school senior," Bolick said. Because of such disparities, Bolick argued that there is no program that should be considered "too radical."

Bolick defended the first school choice program in the U.S. and won the 1988, landmark ruling in *Jackson v. Benson*, in which the Wisconsin Supreme Court upheld the Milwaukee Parental Choice program. Bolick said that where school choice programs have been adopted (Wisconsin, Ohio, and Florida) they have been successful. The indications of this success, Bolick argued, are that only 10% of public school students, those who desperately needed the choice, left public schools.

Bolick said that school choice programs lead to public school improvement by forcing public schools to begin a reform process when faced with the prospect of losing students and money. In Florida, for example, vouchers are awarded only when public schools fail. Failing schools are put on notice; if they do not improve in one year, their children would receive vouchers. Bolick said that of the 58 schools that first appeared on the failing list, none failed a second time.

Although Bolick admitted that if he had written the California proposition he would have done it differently, he still supported Proposition 38. "The same predictions were made in Florida and Milwaukee, but the sky did not fall," he said.

For Bolick, the bottom line is that California education needs to improve. "If your child was in a poor performance school," Bolick asked, "wouldn't you do everything you could to get your child into a better school?"

Why Voucher Programs Are Not Good For Education

Beverly Tucker, who heads the legal team for the largest teacher's union in the state, said she speaks for all California public school teachers who are concerned with providing a free education for all of the state's children, and argued that voucher programs are not good for public education.

Tucker argued that the proposition on the November ballot, as well as other voucher programs in general, are bad public policy. "Proposition 38 was not written in a way that would benefit low-income children," Tucker said. "Instead it was written in a way that would damage and injure the public school system of the state and cost taxpayers billions of dollars without accomplishing its goal."

One of the reasons Tucker believes voucher programs are bad public policy is that none of the money would be used to improve neighborhood public schools. "The state

has an obligation to fund such a system...one that is accessible to all children," Tucker said. "The state cannot fund two separate systems, one private and one public."

Tucker offered several arguments against the voucher program and why it would not improve education, including the problem of no accountability to taxpayers, no academic standards, and no governmental regulation to assure that there is no fraud in the administration of voucher schools. Tucker also said that voucher school teachers would not have to conform to the same teaching standards as public school teachers, such as not being required to earn teaching credentials.

Tucker expressed concerns over children being discriminated against in voucher schools. She argued that although voucher schools were not allowed to discriminate against students on the basis of race, color, ethnicity, or national origin, they could still reject students based on primary language, sex, family's ability to pay for school tuition in addition to the voucher amount, academic or athletic ability, religion, or disability. Also, no provision for enforcement exists in the proposition; a voucher school which blatantly discriminates against race, for example, might not necessarily lose its ability to collect vouchers according to Tucker.

While the school voucher program may be meant to help low income children in need of a better education, Tucker said that Proposition 38 would cost the state an estimated \$3 billion to fund parents of children already attending private schools. "Like many simple solutions," she said, "the voucher program provides no solution at all."

Although Bolick offered evidence of school choice programs that have been successful in other states, Tucker argued that empirical evidence exists that demonstrates voucher programs do not work. She said that food stamps are a voucher program that has been proven to be ineffective. "The same will be true for the [school] voucher programs," Tucker argued.

Tucker also suggested that voucher programs will subsidize rich parents who do not need the money. "Parents should not ask the taxpayers of this state to subsidize their choice," Tucker said. "The schools choose, the parents don't, and the children will lose."

The defeat of Proposition 38 last November ended this particular debate about this particular solution to our state's education woes; however, the election did not end the discussion altogether. The question still remains: how can California improve its public K-12 education?

The Future of Intersectionality And Critical Race Feminism

By Christine Pangan
Section Editor

The *Journal of Contemporary Legal Issues* conference, "The Future of Intersectionality and Critical Race Feminism," combined a variety of speakers from across the United States who presented papers and research at USD's Manchester Conference Center.

According to the *Journal*, "Intersectionality and Critical Race Feminism have provided fresh perspectives on the analysis of issues in many legal settings, including employment law, criminal law, family law, legal education, and others."

"The purpose of [the conference was] to revisit the theoretical, doctrinal, and practical possibilities of these legal theories."

Megan Berry, a second-year law student at USD said that it was fortunate USD was able to host such a conference. "There were all kinds of brilliant minds from across the U.S.," Berry said. "USD was very lucky to have them all come. [Plus,] the topic [of the conference] was very interesting, especially because there doesn't seem to be a lot of classes at USD that touch on this subject matter. Hopefully that will change in the future."

Speakers included Laura Padilla, a professor of law at California Western School of Law who "teaches in Trusts and Estates, Gender, Property and law, Property, and Community Property; her research interests lie in the area of property rights, race, gender and spirituality." Padilla discussed the importance of gender, race, and property, saying, "the law is not as gender neutral as it purports to be...[and] what the U.S. does and does not do influences the rest of the world in determining what is acceptable."

The conference included speakers such as Anna Han, a

professor of law at Santa Clara University School of Law, who discussed women in China's changing economy; Devon Cardabo and Mitu Gulati, acting professors of law at UCLA, who presented their research on Title VII's racial subject; and Adrien Wing from the University of Iowa who spoke on polygamy in South Africa and black America.

Paulette Caldwell, law professor at New York University School of Law, presented an intersectional analysis of jurors and the problems of people, such as women of color not serving on juries. "We are taking ourselves out of play," Caldwell said. She called on people to "rock the jury, show up in massive numbers," instead of facing a "sense of systematic exclusion."

Other speakers included Regina Austin, "the William A. Schnader Professor of Law at the University of Pennsylvania;" Jerome Culp, a "Professor of Law at Duke University School of Law; Angella Harris, a "Professor of Law at the University of California--Berkeley (Boalt Hall), who writes widely in the area of critical race theory and feminist jurisprudence;" Beverly Moran, the "Voss-Bacom Professor of Law and the Director of the Wisconsin Center on Law and Africa;" and Deborah Jones Merritt, the "Interim Director of the John Glenn Institute for Public Service and Public Policy at The Ohio State University, as well as the John Denver Drinko/Baker & Hostetler Chair in Law." Merritt has "published widely on issues of equality, affirmative action, federalism, health and technology, legal education, tort reform, and law and social science."

USD Law's Jean Montoya also participated in the conference. Montoya has taught at USD Law since 1990. She is a professor of Criminal Law, Evidence, Advanced Trial Advocacy, and she is involved in the Criminal

Clinic. Montoya's "primary research interests include child witnesses and jury selection." Her 1996 article entitled, 'What's So Magic[al] About Black Women?: Peremptory Challenges at the Intersection of Race and Gender,' was published in the Michigan Journal of Gender & Law."

Finally, our own Dean Rodriguez participated in the conference. Dean Rodriguez has "taught Administrative Law, State and Local Government Law, Constitutional Law, and Legislation." Dean Rodriguez "earned his J.D. cum laude in 1987 at Harvard Law School, where he was the Supreme Court Editor of the Harvard Law Review. He served as a judicial law clerk for The Honorable Alex Kozinski, U.S. Court of Appeals, Ninth Circuit (1987-1988). He also is an alumnus of California State University, Long Beach, where he earned the highest honors as outstanding graduate in the School of Social and Behavior Sciences in 1984."

Cara Lucier, a USD Law student, said that she felt the speakers were multi-faceted people. "They have amazing personal backgrounds...and have such a breadth of experience and knowledge," Lucier said.

Lucier, who works on the *Journal of Contemporary Legal Issues*, said that she enjoyed working on the symposium. "It was an amazing experience to talk to these people, these speakers, in such a casual way," Lucier said. "Their names pop up in my textbooks...it makes the things you read more interesting."

The *Journal of Contemporary Legal Issues*, which varies in focus each year, will be published this semester. The journal is organized this year by Professor Mary Jo Wiggins.

Great News From The Admissions & Financial Aid Office

Press Release

The Law School Admissions and Financial Aid Office and Dean Rodriguez have approved a pay increase for all law students working under the Federal Work Study program. The new pay rates assigned are as follows:

- *1st Year Law Students.....\$10.00 per hour.
- *Lawyering Skills I Specialists.....\$10.00 per hour.
- *Academic Support Tutors.....\$10.00 per hour.
- *2nd Year Law Students.....\$11.00 per hour.
- *3rd and 4th Year Law Students.....\$12.00 per hour.
- *LLM Students.....\$13.00 per hour.
- *Research Assistants.....\$13.00 per hour.

Please consider these increases when calculating your remaining award amounts. If you are not currently using your Federal Work Study award and would like to, or if you have any questions, please contact the Financial Aid Office.

Law School News:

Useful information to put students in the know.

What's going on with the Writs?

Preliminary plans are being made to update the Writs and the lobby area outside the Writs. In an effort to kill two birds with one stone, Dean Rodriguez is investigating the viability of restructuring the entire downstairs. The two birds are a shortage of faculty offices and an improvement on student facilities. Student input is essential to the planning process. Keep your eyes open for a questionnaire in the next two weeks and start thinking about your likes and dislikes.

Is the new elevator a sign of an overhaul for Warren Hall?

Probably not. As an aging building, certain mandatory repairs are required for the law school. The obvious being mechanical repairs for safety. The "new" elevator has noticeable improvements. Chiefly, increased speed and a dramatic cosmetic overhaul. For your own amusement, dress in business attire and ride the elevator from the first to the third floor. If you use your imagination, you can pretend you are going to work at a prestigious law firm.

Is it safe to use the stairs at the back of Warren Hall?

Yes and no. According to Bill Anderson, the stairs passed a test for structural integrity. Technically they are safe. On the other hand, when it rains the stairs not only hold water, but they become extremely slick. The university is accepting bids to replace the stairs as part of a larger plan. For now, students should avoid leaning on the railing around the patio areas and use the inside stairs during wet weather. Non-skid tape should be in place soon.

Intramurals Are Here Again

By Frank Cruz

Staff Writer

Second Semester Intramural sign-ups begin the week of January 22nd. Entries for the competitive softball league, co-ed softball league, and basketball league will be available on the Intramural Office door in the Writs beginning Monday, January 22nd.

Competitive softball league games will be played on Thursday nights on the Canyon Field softball diamond. The league begins play February 1st, with the playoffs culminating on March 15th. All USD Law students, professors, faculty and alumni are eligible to play. The entry fee for each team is \$110. Competitive softball league entries are due by Tuesday, January 30th.

Co-ed softball league games will be played on Friday afternoons on the Canyon Field softball diamond. League action begins Friday, February 2nd, and will end Friday,

March 16th. All USD Law students, professors, faculty and alumni are eligible to play in the co-ed softball league. Also, in order to fulfill roster requirements, any female is eligible to play in the co-ed league. The entry fee for each team is \$110. Co-ed softball league entries are due Wednesday, January 31st.

Basketball league games will be played on Sunday afternoons in the Sports Center Gym with the playoff games being played in the Jenny Craig Pavilion. The basketball league begins play February 4th, and will run until early April. All USD Law students, professors, faculty and alumni are eligible to play. Also this season, students from Cal Western and Thomas Jefferson are eligible to play in the basketball league. The entry fee for each team is \$100 and entries are due by Wednesday, January 31st.

Finally, the USD Intramural Department will be holding its annual USD Law School Golf Tournament. The tournament date has not been determined yet, but entries and information should be available sometime in February. All USD Law students, professors, faculty and alumni are eligible to play.

The Socratic Method

By Kenneth M. White

Editor-in-Chief

The Socratic Method. Every law student is familiar with it. But what is it exactly? As Socrates himself would ask, What is the definition of the Socratic Method? In the last issue of *Motions*, the Socratic Method was reported as being, "fine to the extent that that's what law schools do." *Motions*, no media slouch, has also reported Professor Kelly's definition of the Socratic Method: "At its roots, [the Socratic Method] is nothing more than questions that lead you to think through a problem and to understand it more thoroughly."

With much respect to Judge Jones and Professor Kelly, I do not believe that Socrates would have been pleased with the above definitions. Socrates might note, as he did in *Euthyphro*, that there is a difference between descriptions and definitions. Socrates would want, and therefore I think we should want as well, an explanation of the Socratic Method's characteristic "in itself, so that by fixing [our] eyes upon it and using it as a pattern [we] may be able to describe any action, yours or anyone else's" as being Socratic or not.

Actually I'm not being fair. Who am I to say what Socrates would do with Professor Kelly or Judge Jones? I'll just report what Hugh Tredennick, a respected translator of Plato's writings about Socrates, had to say about the Socratic Method, and then I'll report what Socrates (Plato) had to say about the whole matter.

According to Tredennick, the Socratic Method works as follows. "As soon as a term like Courage cropped up in the course of a conversation, [Socrates] began by asking what it meant; and then, when the attempted answers proved to be unsatisfactory, proceeded to adduce various instances of courage, and show that, though different in detail, they have some common characteristic by which they are all recognizable as what they are; and this, expressed in words, is the definition."

In Plato's *Apology*, Socrates summed up his life before a jury that would later sentence him to death based on false charges of corrupting the young and heresy. Socrates told the jurors, "Whenever I succeed in disproving another person's claim to wisdom in a given subject, the bystanders assume that I know everything about that subject myself. But the truth of the matter...is pretty certainly this: that real wisdom is the property of God, and...human wisdom has little or no value." In other words, Socrates was wise because he was consciously aware that he knew nothing. When Socrates met someone who believed he knew something, Socrates would question that person until it became evident that the person, in fact, knew nothing. As Socrates said, "The wisest of you men [and women] is he who has realized...that in respect of wisdom he is really worthless."

So then the Socratic Method is really an attempt to prove that nothing is known? Try that in class. "I'm sorry Professor, the answer to your question is truly irrelevant, after all you are seeking answers that do not exist because, as Socrates taught, there are no right answers--we have no knowledge." I'm sure the Professor will happily end class right there, and suggest meeting for beers

instead of class the next lecture hour.

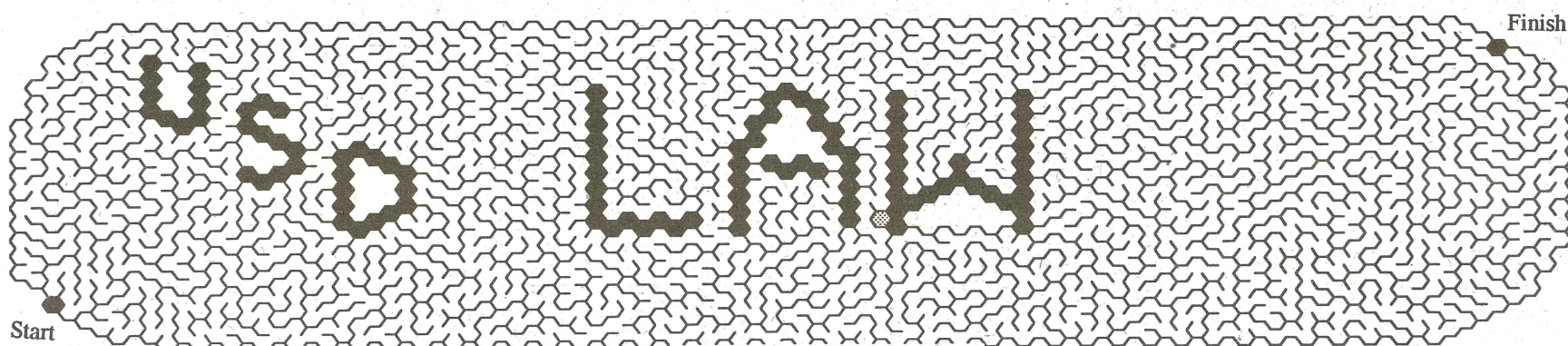
It would seem that the Socratic Method is a big joke on us all, then. Somewhere, perhaps, Socrates is laughing with that famous Harvard Dean.

But maybe the Socratic Method is more than just tradition, more than just a joke. Maybe, when practiced diligently, the Socratic Method is a useful learning device. Some have called the Socratic Method a game that only two people can play. However, I think the Socratic Method might be more. I think it is a bargain--and a worthwhile one at that.

The deal is this. One person, the professor, has something that 80 or so others want, need. The professor diligently leads these others, the students, to what they want. The students, in turn, must be willing to be led.

Since we all are familiar with the route of this deal--the questioning and answering--I will not go into detail about that. What I want to stress is the bargain, which requires both the student *and* the professor to be earnest in their journey. When the students slouch, when our minds wander because we are not on the "hot-seat," we have failed to uphold our part of the bargain--we will not get to where we need to go. Perhaps worse is when the professor fails to lead the students. Like the sleeping driver bound to crash, the lazy professor can kill our education by never leading us to where we need to be.

With all that said, I have to admit I like the Socratic Method. After all I believe, like Socrates, that I know nothing. The Socratic Method only reaffirms that knowledge. Is that a contradiction? I don't know. But I'll see you in class anyway.





University of San Diego

Motions

From the Dean's Corner

January 23, 2001

Welcome back to a new semester and, depending on with whom you speak, the "official" new millennium! I hope you all had a pleasant holiday and have returned to Law School renewed and reinvigorated.

Faculty and staff have kept busy during the break. Preparations continue for *Conscience, Law, and Personal Integrity: Thomas More and Professional Responsibility in the New Millennium*—a half-day legal ethics conference on Friday, January 26 in Grace Courtroom. Students are invited to attend this gathering of law faculty, distinguished members of the bench and bar, and an internationally-recognized scholar on the life and times of St. Thomas More, as they investigate Thomas More's understanding of the foundations of law and the indispensable role that lawyers of integrity play in society. Seating is limited, so sign up in the Dean's Office if you are interested.

The Law School will also co-host with the Kroc Institute the visit of The Honorable Miria Matembe, Minister for Ethics and Integrity from Uganda. Minister Matembe is a lawyer who helped draft the Ugandan constitution. A member of parliament and an activist on the rights of Ugandan women, Minister Matembe has written and spoken on women's political participation as well as on state and private sector partnership in fighting corruption. Plans for Minister Matembe's visit are in the works for January 30. Please watch your mailboxes for details.

Gearing up for the new semester, the law faculty held its Third Annual Research Colloquium on January 12—an all day scholarly retreat, presentation of papers, and exchange of ideas. Earlier this month, Professors Lynne Dallas, Heidi Hurd, Jean Montoya, Frank Partnoy, Emily Sherwin, Mary Jo Wiggins, and I represented USD as speakers, panelists, or discussants at the Annual Meeting of the Association of American Law Schools in San Francisco. We also took the opportunity to inaugurate the San Francisco chapter of USD Law alums at a kick-off reception which was well attended by Bay Area alumni. As our alumni ranks continue to grow, it is a distinct pleasure to visit with our expanding law school community around the country. I am also pleased to report on the success of two local alumni, R. Christian Hulbert (class of '88) and Benjamin C. Bunn (class of '89), who have been named Trial Lawyer of the Year and Consumer Advocate of the Year, respectively, by the Consumer Attorneys of San Diego.

New faculty and new courses on tap for this semester: Scott Brewer of Harvard (*Contracts, Jurisprudence of Excellence*), Allison Jones—solicitor and Lecturer in Law at King's College London (*EC Competition Law*), Frank Kemerer—Regents Professor of Education Law at the University of North Texas (*School Choice Vouchers*), and Mat McCubbins—professor of political science at UCSD (*Political Theories of Law*) join returning Fall visitors Tom Bell (*Internet Law*), Michael Devitt (*Accounting for Securities Lawyers*), and Kevin Greene (*Rights of Publicity*). Distinguished Visiting Professor Carl Auerbach begins his 17th spring at USD and will teach *Professional Responsibility* and *American Legal History*. Other repeat spring visitors are M. Carr Ferguson (senior partner in the New York City law firm of Davis Polk & Wardwell) teaching *Corporate Reorganizations*, Yale Kamisar (Clarence Darrow Distinguished University Professor of Law at the University of Michigan) teaching *Criminal Procedure I*, The Honorable David Laro (United States Tax Court) teaching *Valuation*, Walter Raushenbush (Emeritus Professor at the University of Wisconsin Law School) teaching *Real Estate Finance*, and Richard Speidel (Beatrice Kuhn Professor of Law at Northwestern University School of Law) teaching *UCC: Sales and International Arbitration*. Detailed faculty biographies are posted outside room WH206. Better yet, stop by their offices and chat with these faculty who bring enormous depth and talent to our already impressive faculty.

Classes, conferences, a kegger (or two!) and ultimately commencement—a busy semester lies ahead. As we count down to the next millennium, I urge you to savor these law school days in the true spirit of renaissance: study hard, take advantage of the variety of programs and activities that the Law School has to offer, and spend time with your family and friends. Best of luck and see you at the coffee cart!

School of Law

5998 Alcalá Park, San Diego, California 92110-2492 619/260-4600 Ext. 4343